

9:47 am, Oct 11, 2018

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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ALAN CALLEJAS, CARLOS FLORES, and  
JOSE ROSALES, on behalf of themselves and  
all others similarly situated,

Plaintiffs,

-against-

HITANO SERVICES, INC. D/B/A ACTION  
BUILDING SERVICES, and EDUARDO  
PEREZ, individually,

Defendants.  
-----X

**U.S. DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
LONG ISLAND OFFICE**

**MEMORANDUM OF  
DECISION & ORDER**  
2:15-cv-01123 (ADS) (GRB)

**APPEARANCES:**

**Law Office of Jose G. Santiago, Esq.**

*Counsel for the Plaintiffs*

3275 Veterans Memorial Hwy., Ste. 15

Ronkonkoma, NY 11779

By: Jose G. Santiago, Esq., Of Counsel.

**SPATT, District Judge:**

The complaint in this action was filed on March 4, 2015. The Plaintiffs moved for a default judgment on February 18, 2016.

On February 19, 2016, the Court referred the matter to United States Magistrate Judge Gary R. Brown for a recommendation as to whether the motion for a default judgment should be granted, and if so, (1) whether damages should be awarded, including reasonable attorney's fees and costs, and (2) whether any other relief should be granted.

On August 10, 2016, Judge Brown issued a Report and Recommendation recommending (1) a default judgment be entered in favor of the Plaintiffs and against the Defendants, and (2) denying the motion for damages without prejudice to renew.

On September 30, 2016, the Court adopted the Report and Recommendation and granted the Plaintiffs leave to file a renewed motion for damages within thirty days of the order.

On January 10, 2017, Judge Brown initiated a status report request for failure to prosecute resulting in a status letter, ECF 21, filed on February 7, 2017 in which the Plaintiffs requested an inquest.

On July 31, 2017 the request was denied without prejudice and the Plaintiffs were directed to file a motion for damages by October 1, 2017. The Plaintiffs were also cautioned that failure to file the motion would result in a recommendation that the case be dismissed for failure to prosecute. A Status Report Order and a Second and Final Status Report Order were issued on April 5, 2018 and May 3, 2018 respectively, with warnings that failure to respond may result in a report and recommendation that the case be dismissed for failure to prosecute. A review of the docket shows that no action has been taken to prosecute this action since February 7, 2017.

Based on these facts, on September 25, 2018, Judge Brown recommended to the Court that the above matter be dismissed for failure to prosecute, the Clerk of the Court enter judgment and the case be closed. A copy of the Report and Recommendation was provided to the Plaintiff's counsel via ECF.

It has been more than fourteen days since the service of the R&R, and the parties have not filed objections.

As such, pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the R&R for clear error, and finding none, now concurs in both its reasoning and its result. *See Coburn v. P.N. Fin.*, No. 13-CV-1006 (ADS) (SIL), 2015 WL 520346, at \*1 (E.D.N.Y. Feb. 9, 2015) (reviewing Report and Recommendation without objections for clear error).

Accordingly, the R&R is adopted in its entirety. This case is dismissed for failure to prosecute. The Clerk of the Court is respectfully directed to enter judgment and close the case.

**SO ORDERED.**

Dated: Central Islip, New York

October 11, 2018

/s/ Arthur D. Spatt

ARTHUR D. SPATT

United States District Judge